

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (C) NO. 39994 OF 2012

M/S. MAC CHARLES (I) LTD.

Petitioner

VERSUS

M/S. INDIAN PERFORMING RIGHTS SOCIETY LTD. Respondent

O R D E R

In view of the proviso to Section 60 of the Copyright Act, 1957 specifically enumerating that "this Section shall not apply if the person making such threats, with due diligence, commences and prosecutes an action for infringement of the copyright claimed by him" the suit filed by the respondents in the Delhi High Court cannot be held as not maintainable.

The judgment and order in the matter of "Super Cassette Industries Ltd. Vs Bathla Cassettes India (P) Ltd., AIR 1994 Del 237, has further clarified the proviso which makes the position clear that this Section will have no application if a person who has made such threats commences and prosecutes with due diligence an action for infringement of the copyright claimed by him. Once a suit is filed for infringement of the copyright by the person who has given the threat, the suit under Section 60 becomes infructuous as the Section ceases to apply in such a situation.

In view of the aforesaid provision, the High Court has refused to stay further proceedings of the suit instituted by the respondents who is alleged to have given threat to the petitioner.

We find no infirmity in the impugned judgement and order for the reasons indicated hereinbefore. The special leave petition, therefore, is dismissed.

.....J.
(GYAN SUDHA MISRA)

.....J.
(PINAKI CHANDRA GHOSE)

NEW DELHI
SEPTEMBER 30, 2013

ITEM NO.61

COURT NO.12

SECTION XIV

Petition(s) for Special Leave to Appeal (Civil) No(s).39994/2012

(From the judgement and order dated 04/10/2012 in CS No.700/2011, IA No.8165/2011 of The HIGH COURT OF DELHI AT N. DELHI)

M/S. MAC CHARLES (I) LTD.

Petitioner(s)

VERSUS

M/S.INDIAN PERFORMING RIGHTS.SCTY.LTD.

Respondent(s)

(With appln(s) for permission to place addl. documents on record and prayer for interim relief and office report)

Date: 30/09/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE GYAN SUDHA MISRA
HON'BLE MR. JUSTICE PINAKI CHANDRA GHOSE

For Petitioner(s) Mr. B.S. Satyanand, Adv.
Mr. Abhijeet Sinha, Adv.

For Respondent(s) Mr. Guru Krishna Kumar, Sr.Adv.
Mr. Hari Shankar K, Adv.
Mr. Aditya Verma, Adv.
Mr. Raunaq Kamath, Adv.
Mr. Anshuman Upadhyay, Adv.
Ms. Lakshmi, Adv.
Mr. Prasanna, Adv.
Ms. Tanvi Misra, Adv.

UPON hearing counsel the Court made the following
O R D E R

The special leave petition is dismissed in terms of the signed order.

(NAVEEN KUMAR)
COURT MASTER

(S.S.R. KRISHNA)
COURT MASTER

(Signed order is placed on the file)